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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,089	01/20/2004	Steven J. Chambers	135/26	1406
7590	09/14/2005		EXAMINER YEAGLEY, DANIEL S	
Averill & Varn 8244 Painter Ave. Whittier, CA 90602			ART UNIT 3611	PAPER NUMBER
DATE MAILED: 09/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/761,089

Applicant(s)

CHAMBERS, STEVEN J.

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-15,17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 3,16 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because:
  - a. they do not include the following reference sign(s) mentioned in the description:
    - i. numeral "50" cited on page 12.
  - b. they include the following reference character(s) not mentioned in the description:
    - ii. numeral "38b" shown in figures 8 and 8A.
    - iii. numeral "60" shown in figures 8A and 8C.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

3. The disclosure is objected to because of the following informalities:

Page 4, paragraph 21, numeral "7B" should be changed to --7C--.

Page 5, between paragraph 34 and 35, a brief description of figures --13A and 13B--, should be inserted.

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Page 12, paragraph 52, numeral "56" should be changed to --58--.

Page 12, paragraph 53, line 3, numeral "36" should be changed to --26--.

Page 12, paragraph 53, lines 4, 7 and 8, numeral "36" should be changed to --36a--.

Appropriate corrections are required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 12 – 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, the phrase "*the side rails*" lack antecedent basis.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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7. Claims 1, 2, 4, 5, 11, 12, 14 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Mitchell '236.

Mitchell shows a powering assembly comprising a hand truck having a transaxle driven by an electric motor differentially connected to right and left axles attached to wheels, wherein a power source is connected to a motor controller and the motor, such that they fit substantially within an outer frame width (figure 2, column 2) which includes side plates that define a protective profile for the powering assembly with slides (bottom edge of side rails), and wherein the outer frame width is between approximately ten inches and approximately eighteen inches and inherently capable of being approximately twelve inches as broadly claimed, the hand truck further includes a speed control attached to handles, and a power on/off indicator residing proximal to the speed control (column 3-4), wherein the wheels are connected to the axles and set to rotate freely on the axles or to be fixed to the axles; as best understood.

8. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated Kratzenberg et al '471.

Kratzenberg shows a powered hand truck comprising left and right wheels 4 being attached to left and right axles (figure 12), having an electric motor supported by the frame and positioned above a floor surface when in the platform-mode with at least one right and left axle driven by an electric motor 11 and includes caster wheels 6, such that an outer frame width is convertible between a 2-wheel mode and a 4-wheel platform mode (figure 6) and includes a power source electrically connected to the electric motor and reside substantially within the outer frame width.

*Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6 – 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell 236.

Mitchell disclosed a powering assembly comprising a hand truck with a transaxle driven by an electric motor (drill), wherein the transaxle and motor may be removed from the hand truck by releasing four fasteners (figure 5) and wherein the motor obviously has a horsepower rating which is inherently capable of being between approximately one quarter and one half horsepower but failed to distinctively disclose a horsepower rating of the motor and failed to disclose a hi/low speed switch for selecting a high speed mode or a low speed mode and failed to disclose a power source comprising two twelve volt batteries.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a motor with a horsepower between approximately one quarter and one half horsepower as claimed, since that is the common horsepower rating of most retail available drills and therefore easily obtainable and readily available and would only be dependent upon users preference and its intended use to adequately handle the load, and further would have been obvious to one of ordinary skill in the art to have utilized a (drill) motor equipped with a common two speed hi/low switch in order to selectively enhance the drive torque capabilities of the motor to prevent overloading the motor dependent upon the load

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encountered and speed desired, as is well known in the motor power field, and would have been further obvious to one of ordinary skill to have provided the motor with a second battery or larger power source in order to provide more power to the motor and extend the operating time to reduce e down time.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell 236 in view of Law et al '166.

Mitchell as stated above shows a powering assembly comprising a hand truck having a side plates and slide but failed to disclose slides fabricated from polytetrafluoroethene

Law shows a hand truck having a side plates which includes slides attached to the side rails to facilitate sliding the hand truck over obstacles (figure 1-2, column 2-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the slide portion of hand truck frame with slides fabricated from a smooth protective material fabricated from a plastic resin material such as nylon or PTFE such like the sliding material taught by Law to provide a smooth sliding surface to the hand truck to minimize risk of damaging the slide portion or an obstacle the hand truck is being slid over.

12. Claims 1 and 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kratzenberg et al '471 in view of Mitchell 236.

Kratzenberg shows a powered hand truck having an outer frame width, wherein a motor driven left and right wheel 4 is supported by the frame and includes caster wheels 6, such that the hand truck is convertible from a two wheel mode to a platform mode (figure 6) but failed to

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show at a transaxle driven by an electric motor differentially connected to the axles substantially within the outer frame width.

Mitchell as stated above shows a powering assembly having a transaxle driven by an electric motor differentially connected to right and left axles attached to wheels, such that the power source is connected to a motor controller and the motor substantially within an outer frame width.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hand truck of Kratzenberg with a transaxle assembly driven by an electric motor differentially connected to the axles substantially within the outer frame width as suggested by Mitchell simply to provide an alternative drive means which utilizes a differential drive for better control and enhanced steerability of the hand truck and would have been obvious to one of ordinary skill to nest the components within the width of the frame to better protect the drive apparatus from damage and provide a more compact arrangement.

#### *Allowable Subject Matter*

13. Claims 3, 16 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



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Kano '578, Craven '732, Roach '358, Montana '484, Ikarimoto '421, Austin '332, Alber '924, Leach '179, Gross '501 and Troughouboff '929 show powering assemblies.

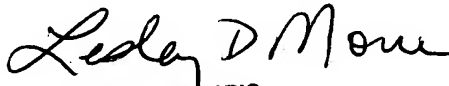
Miyazaki et al '799 shows a hand truck utilizing two batteries.

Malone, Jr. '775 shows a convertible two wheel and platform mode hand truck.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)-272-6655. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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